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| 10/089,638      | 03/29/2002  | Michael Linden       | P/1228-149          | 3097             |

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EXAMINER

CAMPBELL, KELLY E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3618

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/089,638

Applicant(s)

LINDEN ET AL.

Examiner

Kelly E Campbell

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01/31/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-18, 20 and 22-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 14-17, 22, 24, 27-30 and 33 is/are rejected.
- 7) ☒ Claim(s) 12-13, 18, 20, 23, 25-26, 31-32 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11,16-17,24 and 29-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Seidel (DE 423116).

Seidel teaches a motor vehicle including an engine (e), referring to Figures 3-4, and an air intake (t), both located toward the front of the vehicle;

a tubular chassis element (a) extending longitudinally from the front to toward the rear of the vehicle, the chassis element defining an air passage having a substantially constant external/internal cross-section along the length thereof, see Figure 4;

the chassis element including an air inlet (indicated at u) at the front and an air outlet (c) at the rear;

the intake, (t) and inlet (u) having a guide arrangement shaped to lease air flow from the air intake (t) into the inlet (indicated at u); and at least one vehicle component (e) disposed inside the chassis element (a) positioned so air moving through the chassis element (a) to the air outlet (c) passes the component (e), see Figure 3;

wherein a component (silent) of the vehicle drive line is located inside the chassis element (a,b,c), see Figures 2-3;

and includes a bottom plate (silent) disposed under the engine (e), see Figure 3.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-15 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidel (DE 423116) as applied to claim 11 above, and further in view of Umeda (US 4,325,451).

Seidel teaches all aspects of the claimed invention as discussed above for claim 11, except a fan arrangement inside the chassis element.

Umeda teaches a vehicle chassis (24) having an air intake (72), air outlets (76); and a fan arrangement (70) for influencing airflow through the chassis element (24);

wherein the fan arrangement is located towards the air outlets (76) at the chassis element (24), see Figure 2;

with regards to claim 15, the recitation "the fan arrangement located at the chassis element toward the rear of the chassis and toward the air outlet";

Umeda teaches the fan arrangement located towards the air outlet, but does not teach the fan arrangement or air outlet located at the rear of the chassis. It would have

been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle structure of Seidel to include a fan arrangement for improving the cooling affect for the chassis arrangement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the location of the fan arrangement to be at the rear of the chassis for a vehicle having a rear disposed outlet as taught by Seidel, since it has been held that rearranging the parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

With regards to the invention of Umeda not being concerned with guiding air from the front of the vehicle rearwardly, the Umeda reference is simply being use to teach the use of fan for directing air towards an outlet of a vehicle chassis, and the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Claims 22 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidel (DE 423116) as applied to claims 11 and 24 above, and further in view of Strauss (US 1,816,161).

Seidel teaches all aspects of the claimed invention as discussed above for claims 11 and 24, except a radiator for the engine.

Strauss teaches a radiator further including a radiator (6) for the engine and located at the engine; air vents (3,4) disposed in the path of the air from the air intake (7) and located past the radiator (6), the air vents (3,4) being further shaped and positioned for discharging part of the air drawn in from the intake and for reducing the air supplied to the guide arrangement (frontward end of tube 2), see Column 1, lines 31-35.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tubular chassis and engine configuration taught by Seidel with the radiator and air vents taught by Strauss, since it is well known in the art to locate a radiator at a vehicle engine, for transferring heat from the engine to improve cooling of the engine or vehicle components and prevent overheating.

### ***Response to Arguments***

Applicant's arguments with respect to claims 11-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

Claim 12-13,18,20,23,25-26,31-32, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose a substantially constant internal cross-

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section chassis element defining an air passage with a vehicle component disposed inside the chassis element positioned so that air passes the component wherein the engine is disposed forward of the chassis element as disclosed by the applicant. A combination of these and other limitations have not been reasonably disclosed in the prior art.

With regards to claim 18 and 31 the prior art of record does not disclose a gearbox disposed in the tubular vehicle chassis, per the limitations of claims 11 and 24.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E Campbell whose telephone number is (703) 605-4264. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
KEC

  
BRIAN L. JOHNSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3300  
4/12/04